

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1325**

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**Introduced by Assembly Member Lara**

February 18, 2011

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An act to *amend Sections 17913 and 17916 of the Business and Professions Code, relating to ~~state government~~ business filings.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1325, as amended, Lara. ~~State government: Attorney General: duties.~~ *Business: fictitious business name statements.*

*Existing law requires a person transacting business in the state under a fictitious name, as defined, to file, with the county clerk of the county where the business is located, a statement including specified information and to declare that the information is true and correct. Under existing law, a registrant who declares as true information that the registrant knows to be false, or otherwise executes, files, or publishes any statement under these provisions, knowing that the statement is false, is guilty of a misdemeanor punishable by a fine not to exceed \$1,000.*

*This bill would specify on the filing form that a registrant who declares to be true any material matter knowing it to be false is guilty of a misdemeanor punishable by that penalty. The bill would require a registrant to display a personal identification acceptable to the county clerk to adequately determine the registrant's identity, as specified. The bill would also make conforming changes.*

*Because this bill would require an additional level of service from a county clerk's office, this bill would create a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law charges the Attorney General with all legal matters in which the state is interested, except as specified.~~

~~This bill would express the intent of the Legislature to enact legislation that would provide the Attorney General with additional oversight of local government programs relating to persons with undocumented immigration status.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 *SECTION 1. Section 17913 of the Business and Professions*  
2 *Code is amended to read:*

3 17913. (a) The fictitious business name statement shall contain  
4 all of the information required by this subdivision and shall be  
5 substantially in the following form:

6  
7 FICTITIOUS BUSINESS NAME STATEMENT

8 The following person (persons) is (are) doing business as

9 \* \_\_\_\_\_

10 at \*\* \_\_\_\_\_:

11 \*\*\* \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 This business is conducted by \*\*\*\*\* \_\_\_\_\_

16 The registrant commenced to transact business under the fictitious business  
17 name or names listed above on

18 \*\*\*\*\* \_\_\_\_\_

19 I declare that all information in this statement is true and correct. (A registrant  
20 who declares as true information which he or she ~~is~~ any material matter pursuant  
21 to Section 17913 of the Business and Professions Code that the registrant

1 knows to be false is guilty of a ~~crime~~ *misdemeanor punishable by a fine not*  
2 *to exceed one thousand dollars (\$1,000).*

3 Signed \_\_\_\_\_

4 Statement filed with the County Clerk of \_\_\_\_ County on \_\_\_\_\_

5  
6 NOTICE—IN ACCORDANCE WITH SUBDIVISION (a) OF  
7 SECTION 17920, A FICTITIOUS NAME STATEMENT  
8 GENERALLY EXPIRES AT THE END OF FIVE YEARS FROM  
9 THE DATE ON WHICH IT WAS FILED IN THE OFFICE OF  
10 THE COUNTY CLERK, EXCEPT, AS PROVIDED IN  
11 SUBDIVISION (b) OF SECTION 17920, WHERE IT EXPIRES  
12 40 DAYS AFTER ANY CHANGE IN THE FACTS SET FORTH  
13 IN THE STATEMENT PURSUANT TO SECTION 17913  
14 OTHER THAN A CHANGE IN THE RESIDENCE ADDRESS  
15 OF A REGISTERED OWNER. A NEW FICTITIOUS BUSINESS  
16 NAME STATEMENT MUST BE FILED BEFORE THE  
17 EXPIRATION.

18 THE FILING OF THIS STATEMENT DOES NOT OF ITSELF  
19 AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS  
20 BUSINESS NAME IN VIOLATION OF THE RIGHTS OF  
21 ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW  
22 (SEE SECTION 14411 ET SEQ., BUSINESS AND  
23 PROFESSIONS CODE).

24  
25 (b) The statement shall contain the following information set  
26 forth in the manner indicated in the form provided by subdivision  
27 (a):

28 (1) Where the asterisk (\*) appears in the form, insert the  
29 fictitious business name or names. Only those businesses operated  
30 at the same address and under the same ownership may be listed  
31 on one statement.

32 (2) Where the two asterisks (\*\*) appear in the form: If the  
33 registrant has a place of business in this state, insert the street  
34 address, and county, of his or her principal place of business in  
35 this state. If the registrant has no place of business in this state,  
36 insert the street address, and county, of his or her principal place  
37 of business outside this state.

38 (3) Where the three asterisks (\*\*\*) appear in the form: If the  
39 registrant is an individual, insert his or her full name and residence  
40 address. If the registrants are husband and wife, insert the full name

1 and residence address of both the husband and the wife. If the  
2 registrant is a general partnership, copartnership, joint venture,  
3 limited liability partnership, or unincorporated association other  
4 than a partnership, insert the full name and residence address of  
5 each general partner. If the registrant is a limited partnership, insert  
6 the full name and residence address of each general partner. If the  
7 registrant is a limited liability company, insert the name and  
8 address of the limited liability company, as set out in its articles  
9 of organization on file with the California Secretary of State, and  
10 the state of organization. If the registrant is a trust, insert the full  
11 name and residence address of each trustee. If the registrant is a  
12 corporation, insert the name and address of the corporation, as set  
13 out in its articles of incorporation on file with the California  
14 Secretary of State, and the state of incorporation. If the registrants  
15 are state or local registered domestic partners, insert the full name  
16 and residence address of each domestic partner.

17 (4) Where the four asterisks (\*\*\*\*) appear in the form, insert  
18 whichever of the following best describes the nature of the  
19 business: (i) “an individual,” (ii) “a general partnership,” (iii) “a  
20 limited partnership,” (iv) “a limited liability company,” (v) “an  
21 unincorporated association other than a partnership,” (vi) “a  
22 corporation,” (vii) “a trust,” (viii) “copartners,” (ix) “husband and  
23 wife,” (x) “joint venture,” (xi) “state or local registered domestic  
24 partners,” or (xii) “a limited liability partnership.”

25 (5) Where the five asterisks (\*\*\*\*\* ) appear in the form, insert  
26 the date on which the registrant first commenced to transact  
27 business under the fictitious business name or names listed, if  
28 already transacting business under that name or names. If the  
29 registrant has not yet commenced to transact business under the  
30 fictitious business name or names listed, insert the statement, “Not  
31 applicable.”

32 (c) The registrant shall declare that all of the information in the  
33 statement is true and correct. A registrant who declares as true any  
34 material matter pursuant to this section that ~~he or she~~ *the registrant*  
35 knows to be false is guilty of a misdemeanor *punishable by a fine*  
36 *not to exceed one thousand dollars (\$1,000).*

37 (d) *At the time of filing of the fictitious business name statement,*  
38 *the registrant shall display a personal identification in the form*  
39 *of a California driver’s license or other identification acceptable*

1 to the county clerk to adequately determine the identity of the  
2 registrant.

3 (e) The following forms of identification shall be deemed  
4 acceptable for purposes of subdivision (d):

5 (1) If the registrant is a corporation, its articles of incorporation.

6 (2) If the registrant is a limited liability company, its certificate  
7 of organization.

8 (3) If the registrant is a limited liability partnership, a limited  
9 liability partnership statement.

10 (f) A registrant that mails a fictitious business name statement  
11 to a county clerk's office for filing shall include the following, as  
12 applicable:

13 (1) A notarized certificate of identity statement, in the case of  
14 a registrant other than a corporation or limited liability company.

15 (2) Its articles of incorporation or a notarized certificate of  
16 identity statement, in the case of a corporation or limited liability  
17 company.

18 SEC. 2. Section 17916 of the Business and Professions Code  
19 is amended to read:

20 17916. Presentation for filing of a fictitious business name  
21 statement, signed by the registrant, and one copy, accompanied  
22 by a display of personal identification in accordance with Section  
23 17913, tender of the filing fee, and acceptance of the statement by  
24 the county clerk constitute filing under this chapter. The county  
25 clerk shall note on the copy the file number, the date of filing the  
26 original, and the date of expiration and shall certify and deliver or  
27 send the copy to the registrant.

28 SEC. 3. If the Commission on State Mandates determines that  
29 this act contains costs mandated by the state, reimbursement to  
30 local agencies and school districts for those costs shall be made  
31 pursuant to Part 7 (commencing with Section 17500) of Division  
32 4 of Title 2 of the Government Code.

33 ~~SECTION 1. It is the intent of the Legislature to enact~~  
34 ~~legislation that would provide the Attorney General with additional~~  
35 ~~oversight of local government programs relating to persons with~~  
36 ~~undocumented immigration status.~~